[President.]

Government will at the same time bear in mind that the Government is entitled to get a reasonable and legitmate share of the profits resulting from one of the great primary products of the country. They will however give all legitimate encouragement to those whose enterprise has made it possible to create a big industry out of these sands whose value was not noticed during all these years. They will invite them to make this an Indian Industry to a greater extent,

The question that a sum of Rs. 7,10,000 be granted under Demand II—Excise was put and carried. The grant was made.

DEMAND III—ADMINISTRATION OF JUSTICE—
Rs. 11,11,900.

**Mr. Puthupally S. Krishna Pillai :** Sir, I rise to move for a grant of Rs. 11,11,900 under demand III—Administration of Justice.

**Mr. James Fletcher :** Sir, though I support the demand, yet I have to bring certain facts to the notice of the Government. The first point I would like to bring to the notice of the Government is the delay in the Civil Courts. From the report of the Department for the year 1114 what we see is—

> "Of the total pendency of 28,814 ordinary suits, 2,097 were more than 5 years, 9,515 more than 2 years, and 5,935 between 1 and 2 years old."

Sir, the delay in law courts is proverbial. However, it is the duty, the bonden duty of Government to see that delay is minimised as far as possible. Not only is there delay in the disposal of cases but there is delay in getting the decree executed. There is much more delay in execution than in the disposal. Of course no statistics are given regarding the delay in execution, in the report. I know for certain that there is very great delay in execution also. I would request Government to see that the delay in Civil Courts is reduced to the minimum possible.

Another point which I would bring to the notice of the Government is that there is great complaint among the litigant public that they find it difficult to get anything done in the courts without tipping the small clerks and amins and peons. It may be said, at least I anticipate, the Legal Remembrancer telling me that because the private individual wants certain things to be done before another man gets them done, the tipping is necessary. That is not so. Even for getting summons served or for an amin to give delivery of the property, unless and until he is tipped, he will say that he is not going to do it. The summons that is sent through a peon or a process server will not be served unless he is tipped. Otherwise he will say that the man for whom he has gone with the

LIBRARY ARCHIVES Kerala Legislative Assembly

summons is not living at the address mentioned therein. So, it has come to that stage when the ordinary people say that even the pillars of the civil court buildings have to be tipped. Sir, it is the duty of the presiding officers to see that these underlings do not compel payment of money for getting anything done. Whenever it is the duty of a clerk, peon or process server to do a thing, they should be made to do it without demanding these tips.

In this connection, I may also state that one of the reasons for the delay is the recruitment of Munsiffs and others are not made from the best available. I know that the recruitments are recommended by the High Court Judges and I may say that they have not been doing their level best in recommending the best persons. Something should be done to see that only the best among the lawyers and only the best among the clerks are recommended for recruitment to the Munsiff's post. Now, just because a clerk has the advantage of topping the list on account of seniority, he is given a Munsiff's post. That is not the right thing to do. I would say that though the clerks may have taken their B. L. Degree, that clerk should be given the post who has the capacity to work as a judicial officer. Every man who has reached a certain scale of pay should not on account of that be given a Munsiff's place. Therefore, I would suggest that recommendations for recruitment of Munsiffs must be made with every care and consideration.

**Mr. Kochikal P. Balakrishnan Tampi:** Sir, I support the Demand. In supporting the Demand, Sir, I wish to express the deep sense of gratitude which the people of Central Travancore feel towards Government for sanctioning the opening of a district court at Mavelikara. Now that it has been granted I need not tell the House the manifold advantages of having a court located there.

Passing on to the point raised by my honourable friend Mr. Fletcher, do not think that in the matter of the recruitment to the judiciary the principle of the best has been adhered to. I am also glad that the suggestion was made that the High Court's recommendation in the matter might be considered, the convention being established that the Government should not interfere with the recommendations of the High Court in this matter. As regards the Honourable High Court itself, Sir, I suggest that some sort of statutory provision might be made so that they may hold office during good behaviour. It will show clearly to all the world that the Travancore Judiciary is independent. From grounds of psychology also I would say that it is better that Judges are told that they need not aspire to any executive post. I am not disparaging the ambitions of any man. I am told—and for these matters it is difficult to get any records or documentary evidence — that many of the Judges are anxiously awaiting the time when they

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Kochikal P. Balakrishnan Tampi]

would be invited to be the tenants of Bhaktivilas, some on the grounds of seniority, others on the V. S. Subramonia Aiyar—precedent. I have absolutely no envy. I would be one of the very first to call on them and to congratulate them on their appointment. But in the interests of judicial administration, in the interests of independent judicial administration—they may be very very great administrative geniuses unfortunately sitting on the judicial Bench—it is absolutely necessary that they should not be taken to the executive. It should be that they have chosen irrevocably their avocation in life and in however a manner they might make themselves useful to Government or agreeable to Government or agreeable to the public, to the non-officials or the officials, their going to the executive branch should be out of the question.

**President:** So far as the High Court Judges are concerned, apart from the particular residence referred to by the honourable member, there is no other out-let possible. Their salary is Rs. 900 and I do not think any other appointment carries more than that.

**Mr. Kochikal P. Balakrishnan Tampi:** There are certain other posts, Sir. I do not know their place in the constitution.

My honourable friend Mr. Kuripe gave me that hint against envy, that Christian injunction against 'envy'. Therefore, I resist the temptation to talk about officers who want to get out of the Judicial Department and who have in a certain measure managed to do so.

About corruption in courts of subordinate staff, it is not so much as reported. I know that small peons who are under-paid in the services, might be tempted to take a tip. Sir, apart from the moral abhorrence of bribery, a tip has become a most modern thing A tip, if divorced from any association or morality about it, is the most modern and the gentlemanly thing to do, and I find, these low paid peons and other people are not averse after all, sometimes to take somethig as a tip. So long as they are underpaid—from this responsible place I do not want to say that they are justified in doing so—I only want to say that there is not much to be said against that kind of offence. I wonder why my friend Mr. Fletcher expatiates on laws delays. As one who has been pretty long in this profession, I may say that no court wilfully puts off disposal of cases. The delay is because of thousand and one difficulties raised by clients ; and about 99 cases out of hundred are protracted in that manner. If the law of the land had been the law that was administered in the days of Homer, it would have been easier. There would be no great delay. Now certainly it is not a case where justice is meted out with such appliances as molten lead or boiling ghee that need be no delay. Now there are definite rules on the

LIBRARY ARCHIVES Kerala Legislative Assembly

subject. There are the Civil Procedure Code and the Criminal Procedure Code to be adhered to by the courts of the land. They provide a number of safety valves both for the defendant and the accused. Then my friend may turn round and say that the law should be made speedier and that the judges and magistrates are not adhering to the provisions of law. Especially when the depression set in, before any legislation came into being, I should pay a tribute to the courts of the land in understanding the difficulties of the debtors and using the powers vested in them in ordering payments in instalments. Therefore, there is no great force in the observations of my friend. Again, it was stated that the judicial officers are a leisurely sort of people, though one honourable member did not say so in so many words-who would go in the afternoon or towards 4 o' clock, to the court, and then at 4-30 leave for the club. I do not agree with that. On the other hand, our judicial officers are the most hard working gentlemen in the whole State.

(The President called Mr. K. M. Kesavan to speak next).

The honourable member was not present.

**President :** The honourable members, when they give their names in the list of speakers, ought to be in their seats.

**Mr. Kallur Narayana Pillai :** ലാസ് ഡിലേസിനെപ്പറ്റി ഈ ഡിമാൻറിൽ എനിക്കു ചില സംഗതികൾ പറയാനുണ്ട്. ലാസ് ഡിലേസിനെപ്പറ്റി അന്വേഷണം നടത്തുന്നതിന് റിട്ടയർഡു ഹൈക്കോടതി ജഡ്ജി മി. ശങ്കരപ്പിള്ളയുടെ അദ്ധ്യക്ഷതയിൽ ഒരു കമ്മിറ്റി ഏർപ്പെടുത്തി. അദ്ദേഹം വളരെക്കാലം ഇവിടത്തെ ജുഡിഷ്യൽ ഡിപ്പാർട്ട്മെൻറിൽ ഇരുന്ന് അവിടത്തെ നടപടികൾ നിശ്ചയം വന്നിട്ടുള്ള ഒരാളാണ്. അദ്ദേഹത്തെ സഹായിക്കാൻ ഫെഡറേഷൻ ആഫീസർ മി. ജി. പരമേശ്വരൻപിള്ളയും ഉണ്ടായിരുന്നു. അവർ വേണ്ട പ്രകാരം അന്വേഷണം നടത്തി റിപ്പോർട്ട് തയ്യാറാക്കി. എന്നാൽ അതിനുശേഷവും ലാസ് ഡിലേസിനു പരിഹാരമുണ്ടായിട്ടില്ല. ലാസ് ഡിലേസ് ഉണ്ടാകുന്നതിനു പല കാരണങ്ങളും ഉണ്ട്. അതിലേക്ക് എന്റെ പരിചയത്തിലുള്ള സംഗതികൾ പറയാം. എക്സിക്യൂഷൻ നടപടികൾ ആരംഭിച്ചാൽ അതിനു പല സ്റ്റേജുകളും കടന്നു പോകേണ്ടതായിട്ടുണ്ട്. ആ നടപടികളെല്ലാം നടന്നുവരുന്നതിന് വളരെ താമസം നേരിട്ടുവരുന്നുണ്ട്. അതിലേക്ക് രണ്ടും മൂന്നും കോടതികളുടെ അധികാരാതിർത്തികളെ ഒന്നിച്ചു ചേർത്ത് ഓരോ എക്സിക്യൂഷൻ കോടതികൾ സ്ഥാപിക്കുന്നതായാൽ വളരെ സൗകര്യമുണ്ടായിരിക്കും. അതുപോലെ അഞ്ഞൂറു രൂപയോ ആയിരം രൂപവരെയോ ഉള്ള കേസ്സുകൾ സ്മാൾകാസ് കേസ്സുകളായി വിസ്തരിച്ചു വിധിക്കത്തക്ക



LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Kallur Narayana Pillai.]

അധികാരത്തോട്ടുകൂടി നാലോ അഞ്ചോ മുൻസിഫ് കോടതികളുടെ അധികാരാതിർത്തികളും ഒന്നിച്ചു ചേർത്തു സ്മാൾകോസ് കോടതികളും സ്ഥാപിച്ചാൽ വസ്തുസംബന്ധമായ കേസ്സുകൾ കടിശിഖ വരുത്താതെ മുൻസിഫുമാർക്ക് തീർക്കുവാൻ കഴിയും. ഇനി വേറെ ഒരു വിഷമമുണ്ട്. ഇപ്പോൾ സാധാരണയായി ഫസ്റ്റ് ക്ലാസിലോ സെക്കൻറ് ക്ലാസിലോ ഫയലാകുന്ന ക്രിമിനൽകേസുകൾക്ക് ആവശ്യമുള്ള പടി ആദ്യം ഒടുക്കുന്നു. അങ്ങനെ പടി ഒടുക്കി സമൻസ് അയച്ചാൽ സാക്ഷി ഹാജരില്ലെങ്കിൽ അടുത്തതായി ആളുടെ പടി ഇരിക്കെ. വാറണ്ടയച്ചു സാക്ഷിയെ വിസ്തരിക്കുന്നു. എന്നാൽ സിവിൽ കോടതികളിൽ ആദ്യം സമൻസിനപേക്ഷിക്കുമ്പോൾ പടി, മൈലേജ്, ഭക്ഷണച്ചിലവു് ഇതിനെല്ലാത്തിനുംകൂടി ഒരു സാക്ഷിക്ക് രണ്ടോ മൂന്നോ രൂപ പെടവാങ്ങേണ്ടിയിരിക്കുന്നു. സമൻസ് മുതൽ ജപ്തിവരെയുള്ള നടപടികൾക്കെല്ലാംകൂടി ഒരു ആവറേജ് സംഖ്യ കണക്കാക്കി ഒരു സാക്ഷിക്കു ദൂരം കണക്കാക്കി ഇത്ര പണം വീതം ഡിപ്പാസിറ്റു ചെയ്യണം എന്നു നിശ്ചയിച്ചാൽ ഒരു പ്രാവശ്യം ഒടുക്കുന്ന പണം കൊണ്ടുതന്നെ വാറണ്ടോ ജപ്തിയൊ പരസ്യമൊ അയച്ചു സാക്ഷിയെ വിസ്തരിക്കാൻ സാധിക്കുന്നതാണു. ഇതിലേക്കു സിവിൽ പ്രൊസീഡിയർ കോഡിൽ ഭേദഗതി ചെയ്യേണ്ടതാണു്. ഇപ്പോഴുള്ള ലാസ് ഡിലേസിന് മുൻസിഫിനേയൊ വക്കീലിനേയൊ കുറ്റം പറയേണ്ട ആവശ്യമില്ല. നടപടി കൂടാതെ സാക്ഷികളെ വിസ്തരിക്കാൻ ആവക്ക് നിവൃത്തിയില്ല. അതിലേക്ക് വാദിയുടെയും പ്രതിയുടെയും പണം ഇപ്പോൾ നഷ്ടപ്പെട്ടുകൊണ്ടിരിക്കയാണു്. ഇതിനെല്ലാത്തിനു ഒരു പരിഹാരമുണ്ടാക്കേണ്ടതു് അത്യാവശ്യമാണു്.

ജുഡിഷ്യൽ ഡിപ്പാർട്ട്മെൻറിൽ കമ്മ്യൂണൽ റിപ്രസന്റേഷൻ അനുസരിച്ചു പ്രവർത്തിക്കുന്നതു് വളരെ സാഹസമാണു്. അവിടെ കാമൺസെൻസും യോഗ്യതയും ഉള്ള ആളുകളെ വേണം നിയമിക്കേണ്ടതു്. അങ്ങിനെ ചെയ്തില്ലെങ്കിൽ അതുകൊണ്ടു് ഉണ്ടാകുന്ന വിഷമം ജനങ്ങൾക്കാണു്. അതെല്ലാം ഇവിടെ പ്രസ്താവിക്കണമെന്നു ഞാൻ വിചാരിക്കുന്നില്ല. ആലുവാഥിലിരിക്കുന്ന ഒരു മുസ്ലീമിന് ഹൈക്കോടതിയിൽ ഒരു കേസ് ഉണ്ടു്. അയാൾ ഇവിടെ വന്നു് നല്ല ഒരു വക്കീലിനാണ് കേസു് കൊടുക്കുന്നതു്. മി കുക്കിലിയാരെ കൊണ്ടുക്കണോ മി. ഇസ. സുബ്രഹ്മണ്യയ്യർക്കു കൊടുക്കണോ എന്നാണു നോക്കുന്നതു്. ഇതുപോലെതന്നെ സമുദായപ്രാതിനിധ്യം വച്ചുനോക്കിയാൽ കക്ഷി സ്വജാതിയിൽപ്പെട്ട ഒരു വക്കീലിനെ വക്കാലത്തു കൊടുക്കുകയുള്ളൂ. എങ്കിലും സ്വവർഗ്ഗത്തിൽപ്പെട്ട ആളിനെക്കാൾ സമർത്ഥന്മാരായി വേറെ വല്ലവരും

LIBRARY ARCHIVES Kerala Legislative Assembly

ഉണ്ടെങ്കിൽ, കേസിന്റെ താല്പര്യത്തെ പരിഗണിച്ച്, വേറെ വക്കീലിനേ വക്കാലത്തു കൊടുക്കുകയുള്ളൂ. ഈ സ്ഥിതിയിൽ വർഗ്ഗീയ പ്രാതിനിധ്യം ജൂഡിഷ്യൽ ഡിപ്പാർട്ട്മെന്റിൽ വളരെ ദുഷ്യം വരുത്തുന്നുണ്ട്. ഇതിലേക്ക് എത്ര ഉദാഹരണങ്ങളും വേണമെങ്കിലും പറയാം. ഒരു കൊല്ലം വക്കീലായിരുന്ന് ലഭിച്ച പരിചയംകൊണ്ടാണ് ഞാൻ ഇങ്ങനെ പറയുന്നത്.

ഹാളിഡേസ് സംഗതിയിലും വർഗ്ഗീയ പ്രാതിനിധ്യംതന്നെയാണ് കൊടുത്തിരിക്കുന്നത്. എല്ലാ സംഗതികളിലും അതു് ഉണ്ട്. ഈ കഴിഞ്ഞ മിഥുനം ഒന്നാംനു കക്ഷികസംക്രമം ആയിരുന്നു. അന്നേദിവസം എനിക്കറിയാവുന്ന രണ്ടു കോടതികളിൽ ഒരു ജോലിയും നടന്നിട്ടില്ല. ഒരു കോടതിയിൽ ഹിൻഡു സ്പെഷ്യൽ ഹാളിഡേയും മറൊരു കോടതിയിൽ ക്രസ്ത്യൻ സ്പെഷ്യൽ ഹാളിഡേയും ആയിരുന്നു. അതുകൊണ്ടാണ് അവിടെ ജോലികളൊന്നും നടക്കാതിരുന്നത്. ഹിന്ദുക്കളുടെ സ്പെഷ്യൽ ഹാളിഡേസിൽ ഹിൻഡു വക്കീലന്മാർ വരികയില്ല, ക്രസ്ത്യാനികളുടെ ഹാളിഡേസിൽ ക്രസ്ത്യൻ വക്കീലന്മാരും വരികയില്ല.

**President :** The honourable members may be aware that, in regard to this matter, I made a suggestion elsewhere, that their being various kinds of special holidays, those who are interested in the matter, may put their heads together and a certain reduced number of holidays by mutual consent may be declared to be general holidays all over, so that there might not be this confusion which is adverted to by the honourable member.

**Mr. Kochikal P. Balakrishnan Tampi :** May I suggest Sir, that at the close of this Session on the non-official day, arrangements may be made for the members to meet together and come to some understanding on the matter.

**President :** As a matter of fact, I made the position very clear. At present—I am subject to correction— there are about 10 holidays special to the Hindus, about 10 special to the Christians and about 6 special to the Muslims. What I suggested was, if the Hindu members of the legislature would select 5 out of their 10, the Christians 5 out of their 10, and the Muslims 3 out of their 6, then 5 plus 5 plus 3, 13 holidays will be declared as general holidays in addition, so that, there would be no special holidays That was said in the Lower House. It is open to the honourable members to meet together and make some kind of proposal like that.

**Mr. Kallur Narayana Pillai :** ഏതായാലും ഹാളിഡേയെപ്പറ്റി ഞാൻ കൂടുതലൊന്നും പറയുന്നില്ല.

ഇനി കൈക്കൂലിയെപ്പറ്റിയാണ് എനിക്കു പറയുവാനുള്ളതു്. എന്റെ അറിവിൽപ്പെട്ടിടത്തോളം ജൂഡിഷ്യൽ ഡിപ്പാർട്ട്മെന്റ് ൽ

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Kallur Narayana Pillai.]

കൈക്കൂലിയെ സംബന്ധിച്ച സംഗതി ക്ലാക്ക്മാരുടെ ഇടയിൽതന്നെയും ഉണ്ടോ എന്ന് എനിക്കറിഞ്ഞുകൂടാ. അങ്ങിനെയുള്ള ഒരു സംഗതിയും എന്റെ ബോദ്ധ്യത്തിൽ പെട്ടിട്ടില്ല. ഇനി കൈക്കൂലി എന്നു വച്ചാൽ തന്നെ എന്തെന്നു നോക്കാം. ഒരു കേസിന്റെ ഏതെങ്കിലും ഒരു വിവരം അറിയുന്നതിനൊ, പ്രാസസ് സർവർ നടപടി മടക്കുന്നതിനൊ ആയി നാലണയോ മറ്റൊ കൊടുക്കുമായിരിക്കും. അതു് സ്വന്തം മനസ്സാലെ കൊടുക്കുന്നതുമാണ്. മെഡിക്കൽ ആഫീസറന്മാക്ക്, ചികിത്സിക്കുന്നതിനുവേണ്ടി, സ്വന്ത മനസ്സാലെ രോഗികൾ പണം കൊടുത്തുവരുന്നതുപോലെ ഇതിനെയും ഗണിക്കുകയല്ലാതെ ഒരു വലിയ പരാതിയായി ഗണിക്കാൻ പാടുള്ളതല്ല.

**Mr E. K. Kuripe :** ക്ലാക്ക്മാക്ക് ഗവണ്മെൻറിൽനിന്നും ശമ്പളം കൊടുക്കുന്നില്ലേ?

**Mr. Kallur Narayana Pillai :** കൊടുക്കുന്നു. ശമ്പളം ഇവക്കു വളരെ കുറവാണു്.

**Mr. N. Krishna Aiyar:** Sir, I support this demand. The delay in the disposal of cases and neglect of execution work in Civil Courts, and the corruption in the lower ranks of the ministerial branch, were two of the points pointed out by me in the course of my address last year. But, I am glad to say that so far as my knowledge goes

**President :** Order, order. I requested the honourable mem-members to give me a list of the honourable members who desire to participate in the debates and I expect the honourable members who give their names to be present in their seats. But I find, they are not and I hope that a similar experience will not recur. Once they intended to speak having given their names, they ought to be ready when called upon by the Chair.

**Mr. Kochikal P. Balakrishnan Tampi:** Sir, may I submit that this way of giving chits does not seem to work well. It is advantageous from certain viewpoints while it is disadvantageous from this point of view. It is not my object to oppose the delivery of set speeches, but it will, detract spontaniety of discussion a little. Therefore, I believe in the vision of the speaker which will always be a just and calculated sort of thing. A member who could scarcely catch the speaker's eye need not be called up. I only put it as a suggestion.

**President:** That can be done. But some of the honourable members may have prepared speeches carefully or prepared the material carefully. I do not want that they should lose the opportunity of presenting that in a particular debate. If the system does not work, of course, the Chair will do its best to distribute the speeches among the various groups.

LIBRARY ARCHIVES Kerala Legislative Assembly

**Mr. N. Krishna Aiyar** : So far as my knowledge goes, I think there has been a definite improvement in the matter of decrease of corruption and delay. As pointed out by Mr. Balakrishnan Tampi, there are cases of tips and there are cases of forced tips also for returning summons or notices especially when the notices are for permission to bid or for delivery of property. It is not possible to eradicate the evil entirely. But if there is a feeling in the Department that the Government's eye is particularly upon those matters, both to eradicate the delay in the disposal of cases and execution work as well as the eradication of corruption, I believe there will be considerable improvements still further and possibly it may be eradicated substantially. It is true that in the matter of execution work and also in the matter of disposal of cases, it is not entirely due to the indifference of the Munsiffs. They have to follow the Civil Procedure Code and particularly in the matter of execution a number of notices have to be issued and very often they are returned unserved and sometimes it will have to be published in the papers. It is possible to avoid some of these delays by diminishing some of these notices. In the original side once the defendant appears in pursuance to the summons, he takes notice of all the subsequent steps. But in execution, even after execution notice is served, several notices such as notice of proclamation and notice for permission to bid etc., which give opportunities to the defendant to take time for filing objection petitions and getting adjournments and all that and thereby to drag on the proceedings.

Another factor which now regards the progress of suits is the introduction of a system called "waiting list". It is absolutely unnecessary so far as Munsiff's Courts are concerned. This system has been established some two or three years ago possibly owing to some circular or direction by the High Court. Several cases, very simple in the nature of themselves, pronotes or lease suits, which could be disposed of at the first hearing itself or by one or two sittings are automatically thrown into the waiting lists and they will be waiting there unnoticed sometimes for about a year. If they come in the usual course, a large number of them can be disposed of in one or two sittings. A direction may be given to the High Court to remove this system of "waiting list" altogether.

Mr. Kalloor Narayana Pillai has anticipated me to point out the inconveniences felt on account of sectional holidays. But in view of the statement made by the Chair, I do not wish to diliate upon that point. I only wish to point out that serious inconveniences exist and that there is economic waste of time during those holidays and that it hampers the work on such holidays.

The next point that I wish to point out is with regard to the recruitment and promotion in the Judicial Department. My submission is that the convention of selection by rotation from the seniority list or communal list should not be adhered to. Merits and efficiency should be the main criterion.

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. N. Krishna Aiyar.]

As regards the Revenue under the head of "civil administration" I find that Court fees are classed under Stamps. To me it appears that it should be put under "Civil administration". It is a matter for the consideration of the Financial Secretary. To me it appears that there will be a considerable decrease in the Court fees because the number of suits are diminishing and I am not very sanguine about much revenue being raised in that direction. It may be possible to conjecture that in a few years a number of Civil Courts will have to be closed and a number of Vakils will be thrown away from their profession and may have to find some other avocation in life. It is a matter which we shall have to wait and see.

**Mr. K. M. Kesavan**: Sir, I also support the demand. In doing so I would draw the attention of Government to one or two points with regard to laws' delays.

A relation of mine filed a suit some twenty years ago and it is still pending in the High Court. If this is the time taken up by a Court for deciding the case, that is a matter for which some explanation has to be given. 20 years is rather too long a period for the short span of human life. Unpardonable delay like this, does not bring any benefit or credit either to the Government or the parties. So whatever measures are necessary should be taken to prevent this unpardonable laws' delays. Government should make all enquiries and suggest effective measures. With these observations I support the demand.

**Mr. M. K. Ananthasiva Aiyar**: I also support the demand. But I wish to make a few observations. In the first place I have very great pleasure in saying that the judicial officers in the state are above suspicion. I can also say that, with the exception of a few, all judges are very efficient. I cannot but point out that their efficiency is not put into practice. One serious defect why they do not put their efficiency into practice is that good work is not recognised by the Government in the matter of promotion. Whenever a case of promotion comes, Government simply looks at the Civil List and gives the place to the man who heads the list. That ought not to be. If good work will be appreciated by the Government, I am sure that all these officers will show good work and there will be no reason for any complaint whatsoever by any member of this legislature.

Another question which I propose to deal with is with regard to the policy adopted by Government in relation to certain courts in the Ambalapuzha taluk during the last one or two years. At Ambalapuzha, a court was established some three years ago *i. e.* the Additional Munsiff's Court at Alleppey was shifted to Ambalapuzha. A few months after, some pakuthies from the jurisdiction of the Ambalapuzha Court was again transferred to Alleppey. Now

LIBRARY ARCHIVES Kerala Legislative Assembly

with the abolition of Ambalapuzha Court ail the cases that were pending at the Ambalapuzha Munsiff's Court have been transferred to Alleppey. A good number of cases were pending execution in the Ambalapuzha Munsiff's Court at the time when the jurisdiction was changed to Alleppey. At the time when the new court was established at Ambalapuzha, a lot of cases pending execution in Alleppey Munsiff's Court were sent to Ambalapuzha. Many cases were in the sale stage. When these cases were sent to Ambalapuzha, all the necessary expenses had been incurred by the parties and the execution had come to a certain stage. There was no necessity of spending anything further. When these cases came to Alleppey, what the authorities said was that the party should begin the proceedings from the very beginning. We had obtained a decree. We have to get the attachment fresh and we have to go on with all the proceedings afresh. This entails large additional expenditure on the parties, on both the plaintiff and the defendant. It cannot be said that all the amounts that are spent by the parties do find a place in the decrees awarded. So we have again to spend a very large amount which we have already spent in another court. It is absolutely necessary that some provision is made by which the expenditure under this head should not recur again.

**Mr. Thomas Chandy Mukkadan :** ഈ ഡിമാൻറിനെ അനുകൂലിച്ചുകൊണ്ട് ഒരു സംഗതി മാത്രമേ എനിക്കു പറയുവാനുള്ളു ഇപ്പോഴുള്ള സിവിൽകോടതികളിൽ യോഗ്യന്മാരും നല്ല നിലയിലുമുള്ള ആളുകളും ചെന്നാൽ അവക്ക് കേസ് വിളിക്കുന്നതുവരെ ഇരുന്നു വിശ്രമിക്കുന്നതിനു യാതൊരു സൗകര്യവുമില്ലാതെയാണിരിക്കുന്നതു്. ഈ സമീപകാലത്തു് ചെങ്ങന്നൂർ കോടതിയിൽ ചെന്ന ഒരാളിന് വിശ്രമിക്കാൻ സൗകര്യമില്ലാത്തതുകൊണ്ട് അവിടെയുണ്ടായിരുന്ന കാറിൽ കയറി ഇരുന്നുവെന്നും കാറുകൊണ്ടു് ഒരു മരംമറിഞ്ഞുവീണ് കാറതന്നെ നാശപ്പെട്ടുപോയി എന്നും കേട്ടു. ആലപ്പുഴ മുതലായ സ്ഥലങ്ങളിലെ കോടതികളിൽ ചെന്നാൽ കേസ് വിളിക്കുമ്പോൾ ഹാജരാകത്തക്കവിധം ഇരുന്ന് വിശ്രമിക്കാൻ വെയിറ്റിംഗ് റൂം ഒന്നുംതന്നെയില്ല. വളരെ ചിലവുകൂടാതെ എല്ലാ സിവിൽകോടതികളിലും ഇങ്ങനെ ഒരു സൗകര്യംചെയ്യാൽ കൊള്ളാം.

**Mr. Puthupally S. Krishna Pillai :** Sir, of the several complaints made by honourable members. I may advert to the first and the most important, namely delay in law courts. It is several years since Government took up the question very seriously, appointed a Commissioner, obtained his report and adopted necessary measures recommended by the Commissioner. Still there is the complaint that the delay in courts is something which ought to be

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Puthupally S. Krishna Pillai.]

dealt with seriously. Government have also been noticing that there is some amount of delay which ought to be avoided.

Government and the public are at one in this respect. But if all that the Law's Delays Commissioner has recommended was done and there is yet delay the cause of delay must be something different from that actually found by the Commissioner. It was stated here by several honourable members whose experience in courts cannot be denied that the subordinate judicial officers are doing their part of the work very satisfactorily. It was also said Sir, that it may not be attributed to the vakils. If the delay is not contributed by the Judges and if the Vakils are not themselves responsible for any delay, there is one other class of people to be blamed. That is the clients, the litigant public. It has been brought to the notice of Government that the litigants who appear before courts do not always vigilently prosecute their cases before the court. There is delay in payment of court fees and process fees, and failure in filing the necessary applications. The unconscionable delay in the payment of court fees is something peculiar to this State.

**Mr. A. Easwara Pillai**: Is it not due to the inability of the clients to pay court fees in full ?

**Mr. Puthupally S Krishna Pillai**: If it is the inability of the litigants to pay the court fees, the process fees, and the Vakils fees even how can the public be justified in attributing delay to the courts ?

**Mr. M. K. Ananthasiva Aiyar**: Has not the court the power to dismiss such cases ?

**Mr. Puthupally S. Krishna Pillai**: Yes. Sir.

**Mr. Kallur Narayana Pillai**: കോർട്ടഫീസ് മുഴുവൻ അടയ്ക്കാതെ അരക്കുപാ ഒട്ടിക്കൊടുത്തിരിക്കുന്ന കേസുകൾക്കുകൂടി കൂടിശിഖയുടെകൂടെ ഉൾപ്പെടുത്തിയിട്ടുണ്ടോ ?

**Mr. Puthupalli S. Krishna Pillai**: Yes, Sir.

**Mr. Kallur Narayana Pillai**: അഡ്മിനിസ്ട്രേഷൻറിപ്പോർട്ടിൽ കൂടിശിഖയുള്ള കേസുകളുടെ സംഖ്യ കാണിച്ചിരിക്കുന്നകൂട്ടത്തിൽ കോർട്ടഫീസ് അടക്കാത്ത കേസുകൾക്കുകൂടി ഉൾപ്പെടുത്തിയിട്ടുണ്ടോ?

**Mr. Puthupally S. Krishna Pillai**: They are. Even though full court fee is not paid the case is numbered. In British India the rule is otherwise. If a paper is found to be not sufficiently or properly stamped it is returned to the Vakil for rectification of error, and re-presentation. If it is not re-presented within a reasonable time that proceeding is never entertained in the file

LIBRARY ARCHIVES Kerala Legislative Assembly

**Mr. Kallur Narayana Pillai :** ൫ വർഷത്തിനും ൬ വർഷത്തിനും മേൽ കടിശ്ശികയുള്ള കേസുകളുടെ സംഖ്യ പറഞ്ഞിരിക്കുന്ന സ്ഥലത്തു, കോർട്ടഫീസുകളെക്കുടി കാണിച്ചിട്ടുണ്ടോ?

**Mr. Puthupally S. Krishna Pillai :** All cases that are numbered are treated as cases pending in courts.

**Mr. V. Sankara Menon :** May I know whether these cases are numbered without receiving court fees ?

**Mr. Puthupally S. Krishna Pillai :** Yes, Sir. That is the law. The law has not been altered.

**Mr. A. Eswara Pillai :** Then is it not the law that causes the delay ?

**Mr. Puthupally S. Krishna Pillai :** To that extent it may be said to be laws delay?

What I stress Sir, is that Government have done what they could to improve the situation by taking necessary steps. It is pointed out by Mr. Ananthasiva Aiyar that after the transfer of the Ambalapuzha Munsiff's Court to Alleppey all the cases that were pending in that court and those which have reached execution stages were directed to be restarted afresh. Sir, that information is new to Government.

**Mr. M. K. Anantasiva Aiyar :** May I know whether the Legal Remembrancer is aware of the fact that the cases which were pending at the Ambalapuzha Munsiff's Court were first transferred to the Principal Munsiff's Court at Alleppey and now are sent for orders to the Additional Munsiff's Court at Alleppey ?

**Mr. Puthupally S. Krishna Pillai :** I am not in a position to understand the difficulty pointed out by the member.

**Mr. M. K. Anantasiva Aiyar :** But it has been ordered to begin afresh.

**President :** What is it ? Is it to start attachment again ?

**Mr. Puthupally S. Krishna Pillai :** Sir, the rule is that once an execution application is dismissed an attachment effected in execution will stand vacated. When the next execution application is filed, fresh attachment has to be effected. That is the rule under the Civil Procedure Code. I don't think Sir, the other point stressed by Mr. Ananthasiva Aiyar that fresh applications have been called for in every case is a fact. One other point raised by members is about the corruption in courts. Ever since I had occasion to discuss this matter in this House and in the other House I have heard the complaint that the subordinates in the judiciary are corrupt. Of course some observations were made by



LIBRARY ARCHIVES Kerala Legislative Assembly

[ Mr. Puthupally S. Krishna Pillai ]

honourable members like Mr. Balakrishnan Tampi that because most of the subordinates of the Judiciary are low paid, they receive some tips, just to make a living. But, Sir, it is not possible for Government to view it in that light. It will be found that very stringent orders were issued by Government and they have insisted on the enforcement of such orders, that, whenever a person is found to be corrupt by the Departmental Head he must be severely dealt with.

**Mr. Kochikal P. Balakrishnan Tampi :** Sir, I never said that the receiving of tips can be justified. But I only said that because most of them were low paid they were getting tips occasionally. If it is put the other way the Legal Remembrancer will be putting me in the wrong in the eyes of the people at large.

**Mr. Puthupally S. Krishna Pillai :** Sir, I am sorry that my statement was misunderstood by the honourable member. I was only emphasising the Government's attitude towards this question. Honourable members of this House may have been aware of the attitude of Government by the statement of the President of the other House with regard to the allegations of corruption against Government officers. But Government are baffled in their attempts to pick out these corrupt officers as the persons who are affected by corruption do not come forward for the purpose of taking steps against those alleged to be corrupt. In spite of the assurance given by Government that persons who have paid bribes would be exonerated if only Government could detect the corrupt, no body has come forward with any concrete case. Even that promise was not sufficient inducement to help the Government in tackling the problem. But in spite of all that, Government have information that the High Court had occasion to take action on allegations of corruption made against certain subordinate officers. They have taken action in these cases in spite of the formality necessary to be gone through according to the rules of the Civil Court Guide relating to these matters. I have adverted to these facts to convince the honourable members that Government are not sloth in the matter of putting down corruption.

The question that Rs. 11,11,900 be granted under Demand III Administration of Justice was put and carried.

The Demand was passed and the grant was made.

The question that Government be granted a sum of Rs. 11,11,900 under Demand No. III—Administration of Justice—was put to vote and declared carried.

The grant was made.

LIBRARY ARCHIVES Kerala Legislative Assembly